

AMENDED IN ASSEMBLY AUGUST 5, 2002

AMENDED IN SENATE APRIL 18, 2002

SENATE BILL

No. 2021

**Introduced by Committee on Business and Professions (Senators
Figueroa (Chair), Johannessen, Machado, Morrow, Murray,
and O'Connell)**

February 22, 2002

An act to amend Sections 1616.5, 2531, 2534.2, 2570.5, 2570.16, 2570.20, 2770.11, 3330, and 3456 of, and to add Section 2751 to, the Business and Professions Code, and to amend Section 3 of Chapter 859 of the Statutes of 2001, relating to business and professions, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2021, as amended, Committee on Business and Professions. Business and Professions.

(1) Existing law, the Dental Practice Act, provides for the licensing and regulation of dentists by the Dental Board of California. Existing law authorizes the board, with the approval of the Director of the Department of Consumer Affairs, to appoint a person who is exempt from civil service as the board's executive officer to administer the daily operations of the board.

This bill would authorize the board to delegate to executive officer or the assistant executive officer the authority to review and approve or deny a request for any program that has been previously approved by the board.

(+)

(2) Existing law provides that the Speech-Language Pathology and Audiology Board is under the jurisdiction of the Medical Board of California. Existing law authorizes the board to impose fees for specified services that are deposited into the Speech-Language Pathology and Audiology Board Fund, a continuously appropriated fund.

This bill would remove the board from the auspices of the Medical Board of California and would place the board within the Department of Consumer Affairs. The bill would require the Department to enforce and administer the board functions. The bill would additionally authorize the board to impose a fee for issuing a license status and history certification letter. Because the bill would lead to an increase of fees that would be deposited into the continuously appropriated Speech-Language Pathology and Audiology Board Fund, the bill would make an appropriation.

(2)

(3) Existing law, the Occupational Therapy Practice Act, authorizes the licensing and regulation of occupational therapists by the California Board of Occupational Therapy. Existing law provides that a person who meets the qualifications to be admitted to the examination for licensure or certification and is waiting for the announcement of the results of the next examination may practice under the direct supervision of a licensee. Existing law additionally authorizes the board to impose fees for specified services that are deposited into the Occupational Therapy Fund. Existing law authorizes the board to take disciplinary action against a licensee.

This bill would additionally authorize a person to practice under the direct supervision of a licensee if the individual was waiting to take the first available examination or had just taken the examination and was waiting for its results. The bill would authorize the board to charge an application fee of up to \$50 that would be deposited into the Occupational Therapy Fund. The bill would make other conforming changes.

(3)

(4) Existing law, the Nursing Practice Act, provides for the licensing and regulation of registered nurses by the Board of Registered Nursing. Existing law also authorizes the board to take disciplinary action against a licensee. Existing law provides that a licensee may participate in an alcohol or drug diversion program, provided the licensee complies with certain conditions.



This bill would authorize the board to accept the surrender of a license through a settlement agreement in lieu of a formal pleading when the surrender is based upon a mental or physical illness of a licensee that is affecting his or her ability to safely practice nursing. The bill would additionally provide that the stipulated agreement would be a form of discipline, and would allow the licensee to petition the board for license reinstatement after one year from the effective date of the board's decision to accept the stipulated agreement. The bill would require the board, under certain circumstances, to report the name and license number of a licensee who is denied admission to the drug or alcohol diversion program to the board's enforcement program.

(4)

(5) Existing law provides for the licensing and regulation of hearing aid dispensers by the Hearing Aid Dispensers Bureau. Existing law authorizes the bureau to employ personnel necessary to carry out bureau functions except for inspections or investigations which are required to be made by personnel from the department's Division of Investigations. Existing law allows the bureau to impose fees for the issuance of a replacement license when the original license is lost or when the licensee changes his or her name. These fees are deposited into the continuously appropriated Hearing Aid Dispensers Fund.

This bill would authorize the bureau to employ personnel to conduct inspections and investigations. The bill would additionally authorize the bureau to impose fees for issuing a replacement license. Because this would lead to additional fees being deposited into the continuously appropriated Hearing Aid Dispensers Fund, the bill would make an appropriation.

(5)

(6) Existing law requires the Dental Board of California, by August 1, 2002, to contract and submit a completed followup study to the Legislature regarding, among other things, staffing requirements for the board's enforcement program, the use of peace officers, trends in board reported dental-related crimes, and recommendations for improving the board's enforcement program.

This bill would extend the submission date for this study to December 31, 2003.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. *Section 1616.5 of the Business and Professions Code is amended to read:*

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) *An approval request for any program previously approved by the board may be delegated to the executive officer or to the assistant executive officer to review, and approve or disapprove.*

~~(b)~~

(c) This section shall become operative on January 1, 2002.

~~(c)~~

(d) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 2531 of the Business and Professions Code is amended to read:

2531. There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology Board in which the enforcement and administration of this chapter is vested. The Speech-Language Pathology and Audiology Board shall consist of nine members, three of whom shall be public members.

This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2005, deletes or extends the inoperative and repeal dates.

~~SEC. 2.~~

SEC. 3. Section 2534.2 of the Business and Professions Code is amended to read:

2534.2. The amount of the fees prescribed by this chapter is that established by the following schedule:

(a) The application fee and renewal fee shall be established by the board in an amount that does not exceed one hundred fifty dollars (\$150) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter.

(b) The delinquency fee shall be twenty-five dollars (\$25).

1 (c) The reexamination fee shall be established by the board in
2 an amount which does not exceed seventy-five dollars (\$75).

3 (d) The fee for registration of an aide shall be established by the
4 board in an amount which does not exceed thirty dollars (\$30).

5 (e) A fee to be set by the board of not more than one hundred
6 dollars (\$100) shall be charged for each application for approval
7 as a speech-language pathology assistant.

8 (f) A fee of one hundred fifty dollars (\$150) shall be charged
9 for the issuance of and for the renewal of each approval as a
10 speech-language pathology assistant, unless a lower fee is
11 established by the board.

12 (g) The duplicate wall certificate fee is twenty-five dollars
13 (\$25).

14 (h) The duplicate renewal receipt fee is twenty-five dollars
15 (\$25).

16 (i) The application fee and renewal fee for a temporary license
17 is thirty dollars (\$30).

18 (j) The fee for issuance of a license status and history
19 certification letter shall be established by the board in an amount
20 not to exceed twenty-five dollars (\$25).

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 2570.5 of the Business and Professions Code
23 is amended to read:

24 2570.5. (a) A limited permit may be granted to any person
25 who has completed the education and experience requirements of
26 this chapter.

27 (b) A person who meets the qualifications to be admitted to the
28 examination for licensure or certification under this chapter and is
29 waiting to take the first available examination or awaiting the
30 announcement of the results of the examination, according to the
31 application requirements for a limited permit, may practice as an
32 occupational therapist or as an occupational therapy assistant
33 under the direction and appropriate supervision of an occupational
34 therapist duly licensed under this chapter. If that person fails to
35 qualify for or pass the first announced examination, all privileges
36 under this section shall automatically cease upon due notice to the
37 applicant of that failure and may not be renewed.

38 (c) A limited permit shall be subject to other requirements set
39 forth in rules adopted by the board.

40 ~~SEC. 4.~~

1 *SEC. 5.* Section 2570.16 of the Business and Professions
2 Code is amended to read:

3 2570.16. Initial license or certification and renewal fees shall
4 be established by the board in an amount that does not exceed a
5 ceiling of one hundred fifty dollars (\$150) per year. The board
6 shall establish the following additional fees:

7 (a) An application fee not to exceed fifty dollars (\$50).

8 (b) A late renewal fee as provided for in Section 2570.10.

9 (c) A limited permit fee.

10 (d) A fee to collect fingerprints for criminal history record
11 checks.

12 ~~SEC. 5.~~

13 *SEC. 6.* Section 2570.20 of the Business and Professions
14 Code is amended to read:

15 2570.20. (a) The board shall administer, coordinate, and
16 enforce the provisions of this chapter, evaluate the qualifications,
17 and approve the examinations for licensure under this chapter.

18 (b) The board shall adopt rules in accordance with the
19 Administrative Procedure Act relating to professional conduct to
20 carry out the purpose of this chapter, including, but not limited to,
21 rules relating to professional licensure or certification and to the
22 establishment of ethical standards of practice for persons holding
23 a license to practice occupational therapy and for persons certified
24 to assist in the practice of occupational therapy in this state.

25 (c) Proceedings under this chapter shall be conducted in
26 accordance with Chapter 3.5 (commencing with Section 11340) of
27 Part 1 of Division 3 of Title 2 of the Government Code.

28 ~~SEC. 6.~~

29 *SEC. 7.* Section 2751 is added to the Business and Professions
30 Code, to read:

31 2751. (a) Notwithstanding any other law, the board may, in
32 its discretion, accept the surrender of a license through a stipulated
33 agreement in the absence of a pleading when the ability of a
34 registered nurse to practice nursing safely is impaired due to
35 mental or physical illness.

36 (b) This alternative proceeding shall apply only to cases that
37 would otherwise have been processed pursuant to Section 820.

38 (c) Until the time that the licensee signs the stipulated
39 agreement for license surrender, he or she may elect to have the
40 disciplinary process conducted pursuant to Chapter 5

(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The stipulated agreement in this alternative proceeding shall specify that:

(1) The license surrender shall be public information and shall be considered a disciplinary action.

(2) The licensee may petition the board for reinstatement after a period of not less than one year after the effective date of the decision.

(3) Any reinstatement proceeding shall be conducted pursuant to Section 2760.1.

(4) Upon seeking reinstatement, it is the responsibility of the former licensee to submit competent evidence of the ability to safely and competently practice as a registered nurse.

~~SEC. 7.~~

SEC. 8. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by a committee. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If a committee determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the committee shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

~~SEC. 8.~~

SEC. 9. Section 3330 of the Business and Professions Code is amended to read:

3330. The bureau may employ the personnel necessary to administer this chapter and may incur other expenses as are necessary for the administration of this chapter. All inspections or investigations made pursuant to this chapter shall be made by

1 personnel *from the bureau or* from the Division of Investigation
2 of the department ~~or the bureau~~.

3 ~~SEC. 9.~~

4 *SEC. 10.* Section 3456 of the Business and Professions Code
5 is amended to read:

6 3456. The amount of fees and penalties prescribed by this
7 chapter shall be those set forth in this section unless a lower fee is
8 fixed by the bureau:

9 (a) The fee for applicants applying for the first time for a
10 license is seventy-five dollars (\$75), which shall not be refunded,
11 except to applicants who are found to be ineligible to take an
12 examination for a license. Those applicants are entitled to a refund
13 of fifty dollars (\$50).

14 (b) The fees for taking or retaking the written and practical
15 examinations shall be amounts fixed by the bureau, which shall be
16 equal to the actual cost of preparing, grading, analyzing, and
17 administering the examinations.

18 (c) The initial temporary license fee is one hundred dollars
19 (\$100). The fee for renewal of a temporary license is one hundred
20 dollars (\$100) for each renewal.

21 (d) The initial permanent license fee is two hundred eighty
22 dollars (\$280). The fee for renewal of a permanent license is not
23 more than two hundred eighty dollars (\$280) for each renewal.

24 (e) The initial branch office license fee is twenty-five dollars
25 (\$25). The fee for renewal of a branch office license is twenty-five
26 dollars (\$25) for each renewal.

27 (f) The delinquency fee is twenty-five dollars (\$25).

28 (g) The fee for issuance of a replacement license is twenty-five
29 dollars (\$25).

30 (h) The continuing education course approval application fee
31 is fifty dollars (\$50). The fee for a continuing education course
32 transcript is ten dollars (\$10).

33 (i) The fee for official certification of licensure is fifteen dollars
34 (\$15). The fee for a license confirmation letter is ten dollars (\$10).

35 ~~SEC. 10.~~

36 *SEC. 11.* Section 3 of Chapter 859 of the Statutes of 2001 is
37 amended to read:

38 Sec. 3. (a) The Dental Board of California shall contract with
39 the outside entity that completed the independent study required
40 by Chapter 840 of the Statutes of 1999, to conduct a followup study

1 for the purpose of further refining the findings and
2 recommendations of the original study. The contract shall provide
3 the independent entity at least three months to conduct the
4 followup study and shall require that the followup study be
5 completed and submitted to the Legislature by December 31,
6 2003. The followup study shall expand upon and further refine all
7 of the following recommendations and findings resulting from the
8 original study:

9 (1) Recommendations on the staffing requirements for the
10 board's enforcement program, including the number and type of
11 enforcement positions, such as sworn peace officer positions and
12 nonpeace officer positions, that the board needs to fulfill its
13 consumer protection mandate.

14 (2) Findings regarding the extent to which the board needs to
15 use sworn peace officers in its enforcement program.

16 (3) Findings regarding the documentation of trends in dental
17 related crimes reported to the board.

18 (4) Findings regarding the comparison of the board's
19 enforcement program to similar agencies, including the mix of
20 enforcement staff, caseloads, and case aging.

21 (5) Recommendations for improving the board's enforcement
22 program.

23 (6) Findings regarding the fiscal impact to the board from the
24 recommended changes, if any, to its enforcement program and
25 staff.

26 (b) While conducting the followup study pursuant to this
27 section, the outside entity shall consult with all interested parties,
28 including, but not limited to, representatives of consumers, dental
29 professionals, local law enforcement agencies, the Department of
30 Consumer Affairs, and other state agencies that employ sworn
31 peace officers and nonpeace officer investigators.

